Office of the United States Trade Representative
Executive Office of the President
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FACT SHEET
MONITORING AND ENFORCING TRADE LAWS AND AGREEMENTS
May 1, 2000

At the heart of the trade policy of the Clinton Administration is a firm commitment to enforce U.S. trade law and ensure full implementation of our international trade agreements. Vigorous enforcement enhances our ability to get the maximum benefit from our trade agreements, ensures that we can continue to open markets, and builds confidence in the trading system.

Since President Clinton took office in 1993, this Administration has concluded nearly 300 trade agreements to help open markets and create opportunity for all Americans. The scope and coverage of our network of agreements has grown considerably and has heightened our emphasis on ensuring the full implementation of these agreements. As a result, this Administration has devoted more attention and resources than ever before to ensuring that these agreements yield the maximum advantage in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open and predictable trading environment.

Through application of U.S. trade laws – such as Section 301, "Super 301," "Special 301," Title VII, and Section 1377[1] – and active use of the dispute settlement mechanism in the World Trade Organization (WTO) – the Administration has effectively opened foreign markets to U.S. goods and services. The President has also successfully used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform in foreign intellectual property laws. These enforcement efforts have resulted in major benefits to U.S. firms, farmers and workers.

The Administration's enforcement efforts have been comprehensive, having used these tools on more than 100 occasions since 1993. In the past 8 years, USTR has initiated 29 investigations under Section 301; secured increased protection of intellectual property rights in at least 18 countries through Special 301; employed Section 1377 to further the implementation of telecommunications trade agreements on more than 12 occasions; used Title VII to address discrimination in foreign government procurement practices in 5 cases; and, as of April 30, 2000, filed 49 complaints at the WTO. In addition, the Administration has used preferential access to U.S. markets on at least 17 occasions to encourage beneficiary countries to eliminate or reduce market access barriers, afford workers internationally recognized worker rights, or enhance protection of intellectual property rights.

This document describes the enforcement efforts of the Clinton Administration since January 1993. It focuses on use of U.S. domestic trade law tools (Section 301, Super 301, Special 301, Section 1377, and Title VII), recourse to WTO dispute settlement procedures, and use of preferential access to the U.S. market to encourage improvements in beneficiary countries.

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[1] These provisions can be found in: Section 301 of the Trade Act of 1974 ("Section 301"); Section 182 of the Trade Act of 1974 ("Special 301"); and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 ("Section 1377"). The procedures set forth in Section 310 of the Trade Act of 1974 ("Super 301") and Title VII of the Omnibus Trade and Competitiveness Act of 1988 ("Title VII") were re-instituted by Executive Order 13116 of March 31, 1999.

MONITORING AND ENFORCEMENT ACTIONS

Application of U.S. Trade Laws and Enforcement of U.S. Rights Under Trade Agreements Section 301, Super 301, Special 301, Section 1377, and Title VII

U.S. trade laws are an important means of ensuring respect for U.S. rights and interests in trade. As discussed below, this Administration has used *Section 301*, *Super 301*, *Special 301*, *Section 1377*, and *Title VII* to challenge aggressively market access barriers to U.S. goods and services, protect U.S. intellectual property rights, ensure compliance with telecommunications agreements, and address discriminatory foreign government procurement practices.

Section 301 and "Super 301"

Section 301 of the Trade Act of 1974 is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under international trade agreements and may also be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. Since 1993, USTR has initiated 29 Section 301 investigations, some of which were resolved through WTO dispute settlement. "Super 301" refers to an annual process by which the U.S. Trade Representative identifies those priority foreign country practices the elimination of which is likely to have the most significant potential to increase U.S. exports.

- **Argentina - footwear, textiles and apparel.** On October 4, 1996, the USTR self-initiated an investigation and successfully invoked WTO proceedings regarding Argentina's specific duties on various textile, apparel and footwear items. *See* WTO dispute settlement section of this fact sheet for a description of this matter.

- **Australia - leather.** The USTR initiated an investigation and prevailed in WTO dispute settlement proceedings in response to an August 19, 1996, petition from the Coalition Against Australian Leather Subsidies regarding certain subsidy programs designed to enhance Australian leather exports. *See* the WTO dispute settlement section for a description of this matter.

- **Brazil - autos.** The USTR self-initiated an investigation on October 8, 1996, regarding trade and investment measures in the autos sector and successfully resolved this matter by invoking WTO dispute settlement procedures. *See* WTO dispute settlement section for a description of this matter.

- **Brazil - intellectual property rights.** The USTR self-initiated an investigation on May 28, 1993, regarding Brazil's failure to adequately protect intellectual property rights. In April 1996, Brazil enacted a new, long-awaited industrial property law, providing patent protection and greater market access for products.

- **Canada - beer imports.** In August 1993 the United States and Canada settled a long-standing dispute over access for imported beer to the Canadian market, after the United States imposed retaliatory duties on Canadian beer pursuant to section 301.

- **Canada - border water tourism.** The USTR successfully concluded an investigation initiated in response to a petition filed by the Border Waters Coalition alleging that certain measures of the Governments of Canada and Ontario impeded tourism on the U.S. side of the Canadian border. On November 5, 1999, the USTR announced resolution of this matter, with the Province of Ontario agreeing to revoke the measures under investigation.

- **Canada - Country Music Television.** As a result of a section 301 investigation of Canadian government practices regarding the authorization for distribution via cable of U.S.-owned programming services, U.S. and Canadian firms reached a settlement in March 1996 that restored market access.

- **Canada - dairy products.** In response to a petition from the National Milk Producers Federation and others, the USTR initiated and prevailed in WTO dispute settlement proceedings to challenge Canadian practices affecting dairy products. *See* WTO dispute settlement section for a description of this matter.

- **Canada - lumber.** The USTR in 1991 self-initiated an investigation with respect to Canadian measures affecting U.S. exports of softwood lumber. The United States and Canada entered into a Softwood Lumber Agreement on May 29, 1996. This Agreement remains in force and addresses U.S. concerns.

- **Canada - periodicals.** Following self-initiation of a section 301 investigation in March 1996, the United States invoked WTO dispute settlement procedures to challenge Canada's measures that discriminated against imported magazines. *See* WTO dispute settlement section for a description of this matter.

- **China - intellectual property rights protection.** The credible leverage of carefully targeted section 301 retaliation was used to reach agreement in February 1995 with China on enforcement of its intellectual property protection laws, and again in June 1996 to secure effective compliance with that agreement.

- **EU - banana imports.** Following the initiation of a section 301 investigation in response to a petition by Chiquita Brands International, Inc. and the Hawaii Banana Industry Association, the United States invoked WTO dispute settlement procedures to successfully challenge the EU's import practices that discriminate against U.S. banana distribution companies. *See* WTO dispute settlement section for a description of this matter.

- **EU - dairy products.** In October 1997, the USTR self-initiated an investigation regarding EU export subsidies on processed cheese and invoked WTO dispute settlement proceedings. *See* WTO dispute settlement section for a description of this matter.

- **EU - enlargement.** When the European Union enlarged to include Austria, Finland and Sweden, U.S. exports of semiconductors and other products suddenly faced higher tariffs. With section 301 authority and WTO compensation procedures, however, the United States negotiated an agreement with the EU in November 1995 to lower its tariffs on semiconductors and hundreds of other products for the entire EU market.

- **EU - hormones.** The United States and Canada prevailed in a WTO case challenging the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. *See* WTO dispute settlement section for a description of this matter.

- **EU - modified starch.** Following a section 301 investigation initiated in response to a petition filed by the U.S. Wheat Gluten Industry Council, the USTR continued to consult with the EU under provisions of the bilateral agreement with the EU on grains signed July 22, 1996 (Grains Agreement). In a related development, on January 15, 1998, the U.S. International Trade Commission determined that increased imports of wheat gluten are a substantial cause of serious injury to the U.S. wheat gluten industry and on May 30, 1998, the President announced his decision to impose a temporary import quota on wheat gluten.

- **EU - meat inspection.** The United States and the EU formally concluded a Veterinary Equivalence Agreement on July 20, 1999. This Agreement addresses many of the issues raised in Section 301 petitions filed in 1987 and 1990 by associations representing producers of livestock, grains and pork, and packers and processors of meat.

- **India - patent protection.** On July 2, 1996, the United States self-initiated an investigation and successfully invoked WTO dispute settlement procedures regarding India's failure to provide a "mailbox" system for filing patents for pharmaceutical and agricultural chemical products, and for failing to provide a system of exclusive marketing rights for such products. *See* WTO dispute settlement section for a description of this matter.

- **Honduras - intellectual property rights.** The USTR self-initiated an investigation regarding the failure of the Government of Honduras to provide adequate and effective protection of intellectual property rights. The USTR terminated the investigation on June 30, 1998 in light of Government of Honduras measures to combat television privacy and protect intellectual property rights. The United States and Honduras initialed a bilateral intellectual property rights (IPR) agreement in March 1999, and, in December 1999, Honduras passed two new laws in its attempt to conform its copyright, patent, and trademark regimes with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which became effective for Honduras on January 1, 2000.

- **Indonesia - national car programs.** In October 1996, the United States self-initiated an investigation and prevailed in WTO dispute settlement proceedings concerning Indonesia's national car programs, which granted tax and tariff benefits based on local content. *See* WTO dispute settlement section for a description of this matter.

- **Japan - agriculture**. The USTR self-initiated an investigation and prevailed in WTO dispute settlement proceedings regarding Japan's quarantine treatment for horticultural products. *See* WTO dispute settlement section for a description of this matter.

- **Japan - autos and auto parts.** As a result of an October 1994 self-initiated Section 301 investigation, the U.S. and Japan reached an agreement on autos and auto parts in June 1995, including agreement on measures to deregulate the Japanese repair market. The U.S.-Japan Automotive Agreement achieved initial progress in opening Japan's auto and auto parts market to U.S. and other foreign suppliers but results over the last few years have been disappointing. The United States is consulting with U.S. industry, labor, Congress, Non-Governmental Organizations (NGOs), and other interested parties to develop a position on what type of follow-on agreement it should seek in light of the December 2000 expiration date of the current Automotive Agreement.

- **Japan - film.** In response to a petition filed by the Eastman Kodak Company regarding market access barriers in Japan's photographic film and paper market, USTR initiated a section 301 investigation in July 1995 and WTO dispute settlement proceedings in June 1996. The WTO panel issued its report to the parties on January 30, 1998, but failed to find Japan in violation of its WTO obligations. USTR and the Department of Commerce announced in February 1998 a new market opening initiative which established an interagency monitoring and enforcement committee to review Japan's implementation of its formal representations to the WTO regarding the openness of Japan's market to imported photographic film and paper. The committee has released two reports. The most recent report outlines positive steps taken by Japan to help make its photographic film and paper market more competitive, but the report also notes that the U.S. Government continues to receive complaints regarding problematic business practices in the Japanese market. The monitoring and enforcement committee continues to closely monitor Japan's actions in this sector and plans to release its next report this Spring.

- **Korea - autos.** In October 1998, the U.S. and Korean Governments concluded a Memorandum of Understanding (MOU) and exchange of letters to conclude a section 301 investigation initiated after USTR identified Korea's motor vehicle policies as a "priority foreign country practice" in the 1997 Super 301 report. While Korea has taken steps to implement some of the specific provisions in the MOU, the U.S. Government and industry have serious concerns about Korea's overall implementation record on this agreement. The United States will continue to aggressively push for full and faithful implementation of the 1998 MOU and side letter.

- **Korea - shelf life restrictions.** In response to a section 301 petition filed by the National Pork Producers Council, the American Meat Institute, and the National Cattlemen's Association, the United States negotiated an agreement with Korea in July 1995 on measures to eliminate government-mandated, unscientific shelf-life restrictions, and thereby open the Korean market to U.S. meat and other food products.

- **Korea - steel pipe and tube exports.** In July 1995, in response to a section 301 petition from

the Committee on Pipe and Tube Imports, the United States reached agreement with Korea on a mechanism to discuss Korea's economic trends and data on steel sheet and pipe and tube products, and Korea agreed to notify the United States in advance of Korean government measures that control steel production, pricing or exports.

- **Mexico - high fructose corn syrup (HFCS).** In response to a petition filed by the Corn Refiners Association on February 17, 1998, USTR initiated an investigation to determine whether the Government of Mexico had encouraged an anti-competitive agreement to limit the soft drink industry's purchases of HFCS. The USTR noted that it would further explore the nature and consequences of efforts to limit the importation and purchase of HFCS. In tandem, the United States successfully challenged Mexico's HFCS antidumping determination before a WTO dispute settlement panel. *See* WTO dispute settlement section for a description of this matter.

- **Pakistan - patent protection.** On April 30, 1996, the USTR self-initiated an investigation and used WTO dispute settlement procedures to successfully resolve concerns regarding Pakistan's obligation to establish a "mailbox" mechanism for patent applications. *See* WTO dispute settlement section for a description of this matter.

- **Paraguay - intellectual property practices.** The USTR self-initiated an investigation on February 17, 1998, to examine certain practices of the Government of Paraguay that deny adequate and effective protection of intellectual property rights. The United States and Paraguay signed a Memorandum of Understanding on November 17, 1998, which committed Paraguay to take certain actions to address the practices subject to the investigation. The USTR is presently monitoring Paraguay's implementation of the MOU.

- **Portugal - patent protection.** On April 30, 1996, the USTR self-initiated an investigation and used WTO dispute settlement procedures to successfully resolve concerns regarding Portugal's patent law. *See* WTO dispute settlement section for a description of this matter.

- **Turkey - box office tax.** On June 12, 1996, the USTR self-initiated an investigation and used WTO dispute settlement procedures to successfully resolve concerns about Turkey's tax on box office receipts from foreign films. *See* WTO dispute settlement section for a description of this matter.

“Special 301" - Intellectual Property Protection

Under the “Special 301" provisions in U.S. trade law, USTR at least annually identifies those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious practices and whose practices have the greatest adverse impact on the relevant U.S. products are designated as “priority foreign countries”, and are subject to section 301 investigations. Other countries with particular problems of protection or enforcement of intellectual property rights are placed on a “watch list” or “priority watch list” and are monitored closely for progress. Brazil and Thailand were designated as priority foreign countries in 1993, while China was similarly designated in 1994 and 1996, and Paraguay in 1997. Those designations led to subsequent agreements and/or actions, which are described herein.

In addition to several other trading partners, each of the following trading partners has been mentioned in Special 301 reports at some time during the past eight years:

- **Argentina** continues to delay in providing adequate patent legislation, particularly for pharmaceutical products. As a result, Argentina has been placed on the priority watch list and, in 1997, the Administration withdrew 50 percent of Argentina’s tariff benefits under the Generalized System of Preferences (GSP). While Argentina’s level of intellectual property protection for pharmaceutical and agricultural chemical products has continued to decline, in contrast, Argentina’s copyright regime has improved over the last two years. In 1999, Argentina enacted legislation to implement the World Intellectual Property Organization (WIPO) Copyright Treaty and Performance and Phonograms Treaty.

- **Brazil**. In April 1996, Brazil enacted a new industrial property law, providing patent protection and greater market access for products relying on such protection. In May 1997, Brazil implemented its modern patent legislation and enacted modern laws to protect computer software and copyrights. During 1998 and 1999, Brazil made substantial progress on an April 1998 commitment to process pipeline patent applications in an expedited manner, and significantly increased the rate at which it processes regular patent applications.

- **Bulgaria.** The Special 301 provisions of U.S. trade law have been used to obtain steady progress in improving the legislative framework available to protect intellectual property rights and the enforcement of those rights in the Bulgaria. Just prior to the April 1997 Special 301 announcement, Bulgaria adopted amendments to expand the scope of protection for computer software. Prior to the 1998 report, and just after USTR had announced a likely Priority Foreign Country designation in that report, Bulgaria adopted a CD manufacturing plant licensing decree to address an alarming increase in pirate CD production.

- **China.** Before concluding an Intellectual Property Agreement in 1995 and the enforcement action in 1996, China was one of the world's largest producers and exporters of pirated products. Today, China has improved its legal framework, and copyright enforcement has improved; China has met its principal commitment under the 1996 Action Plan -- to stem the flow of exports that were disrupting other developed markets on a global basis and has continued its efforts to contain domestic piracy. Production of pirated copyrighted works has dropped dramatically since 1996; over 80 illegal production facilities have been closed. China has agreed in the context of the negotiations on accession to the World Trade Organization to implement the TRIPS Agreement without recourse to any transition period. China in 1999 issued a high-level directive to all government agencies at the national, provincial and local levels instructing that all agencies use only authorized software. In addition, four Chinese enforcement authorities have joined together to act against pirated optical media, including DVD. These authorities have issued an urgent joint circular to urge every provincial, regional and municipal government authority to launch a special campaign against optical media piracy in China.

- **Czech Republic.** The Czech Republic has enacted new patent, trademark, customs, and criminal and civil code amendments in an effort to bring its intellectual property rights regime in line with TRIPS Agreement obligations. Most recently, the Czech Republic enacted a new copyright law.

- **Hong Kong.** Hong Kong has made impressive progress in controlling rampant copyright piracy. In June 1997, the Hong Kong Special Administrative Region (HKSAR) passed a new copyright law and granted customs authority to seize suspected pirated goods. In December 1997, Hong Kong imposed a licensing requirement for the import and export of machinery and equipment used for optical media production. After the results of an out-of-cycle review were announced in January 1998, new anti-piracy legislation requiring licensing and inspection of CD production sites was passed. After an out-of-cycle review announcement in December 1999, Hong Kong took legislative action to reclassify piracy as an organized and serious crime, extended the mandate of its special anti-piracy task force, and engaged in vigorous enforcement actions against software and other copyright piracy. Hong Kong recently conducted significant enforcement actions against internet piracy.

- **Hungary.** Hungary, which had been placed on the Special 301 "priority watch list," concluded a comprehensive bilateral agreement with the United States in July 1993, agreeing to provide patent protection to products as well as industrial processes. Since that time, Hungary has enacted copyright, patent, trademark, and criminal and civil code amendments to brings its intellectual property rights regime in line with its obligations under the TRIPS Agreement as well as its obligations to the United States and the European Union.

- **Indonesia.** Three pieces of intellectual property legislation were enacted in May 1997, amending Indonesia's copyright, patent, and trademark laws in an effort to comply with the WTO TRIPS Agreement. Shortly thereafter, the Indonesian Government began procuring and using legitimate software, thereby signaling the need for eliminating piracy in such copyrighted goods. Since that time, Indonesia has taken a number of trade-liberalizing measures related to video recordings, updated its copyright law, and taken a number of successful copyright enforcement actions. Draft legislation is currently before Indonesia's Parliament in the areas of

trade secrets, industrial design and integrated circuits, as well as amendments to its patent, trademark and copyright laws, to meet TRIPS Agreement obligations.

- **Jordan.** Jordan has enacted, as part of its WTO accession process, modern copyright and patent laws which appear to be largely TRIPS-compliant. Its decision to provide pharmaceutical patent protection without a transition period was particularly significant.

- **Kuwait.** Kuwait enacted a copyright law in 1999 that provides a firm basis for protection of U.S. works and sound recordings in Kuwait, and provides the basis to commence enforcement against copyright piracy immediately. Kuwait conducted its first significant enforcement actions under this law in early 2000. The copyright law is essentially consistent with the TRIPS Agreement, and the government has pledged to submit several amendments to make the law fully compliant with its obligations under the Agreement.

- **Macau.** Macau has enacted what appears to be a TRIPS-compliant copyright law, required source identifier codes for producing optical media, and required registration of CD production and sales facilities. An Intellectual Property Department has been established to coordinate policy and enforcement, and a government decree has been issued requiring the use by government agencies of licensed software. Macau's courts have implemented a special expedited prosecution system that allows a suspect to be brought immediately to trial.

- **Mexico.** Mexico passed a new copyright law in 1996, which addressed a number of inadequacies in the former law. In 1997, Mexico amended the new law to protect certain types of sound recordings, although a number of other issues remain unaddressed in both the law and the implementing regulations. In 1997, Mexico passed legislation protecting semiconductor maskwork design as mandated by the NAFTA. With respect to enforcement, in 1996 Mexico's President established an Interministerial Commission to address enforcement against piracy and counterfeiting. A number of search and seizure actions have been undertaken in recent years and, after announcement of a National Campaign Against Piracy in 1999, such actions have increased. However, prosecutions of these cases remain minimal and the piracy and counterfeiting rates in Mexico continue to climb. These issues among others will be on the agenda for the bilateral Intellectual Property Working Group re-invigorated in 2000.

- **Paraguay**: In November 1998, the U.S. Government and the Government of Paraguay signed a Memorandum of Understanding (MOU) on the protection of intellectual property, which in conjunction with progress made in this area by the Paraguayan administration, allowed the United States to remove Paraguay from PFC status and to terminate the Section 301 investigation. In the MOU, Paraguay committed to implement institutional reforms to strengthen enforcement against piracy and counterfeiting at its borders, and to pursue legal amendments to facilitate effective prosecution of copyright piracy. Paraguay also committed to take action against known centers of piracy and counterfeiting, such as Ciudad del Este, and to coordinate the anti-piracy efforts of its customs, police, prosecutorial and tax authorities. In addition, Paraguay agreed to pursue reform of its patent law, and to ensure that its government ministries use only authorized software. The patent law has not yet been introduced to the Paraguayan

Congress, but a software decree, designed to legalize federal government software, was signed on December 31, 1998. The Government of Paraguay has taken certain steps to improve its IPR regime, including more stringently controlling some inputs for piracy, such as blank CDs and videocassettes, through Resolution 134; designating an additional Special Prosecutor in Encarnación; and making limited efforts at raids.

- **The Philippines.** The Philippines signed an agreement in 1993 that included commitments to improve protection of copyrights, patents and trademarks, and to improve enforcement. Since that time, the Philippines has intensified its enforcement efforts, and in June 1997 enacted new legislation intended to bring the country's intellectual property laws into compliance with WTO obligations. An intellectual property code (R.A. 8293), which took effect in 1998, was passed in accordance with the 1993 bilateral agreement. The new law provided enhanced copyright and trademark protection; created a new Intellectual Property Office (IPO), with authority to resolve certain disputes concerning licensing; increased penalties for infringement and counterfeiting; and relaxed provisions requiring the registration of licensing agreements.

- **Russia.** Russia's Criminal Code, signed in 1997 provided stiffer penalties for violations of intellectual property rights. Enforcement efforts were also strengthened in 1997, particularly around Moscow, with a resulting increase of seizures of pirated products. However, despite commendable official efforts since that time to improve the enforcement climate, criminal enforcement of intellectual property rights remains inadequate in Russia, and Russia has remained on the Priority Watch List. In addition to improving enforcement, actions needed by the government include amending patent, copyright and data protection laws to comply with the TRIPS Agreement and the intellectual property provisions of the 1991 bilateral trade agreement.

- **Singapore**: As part of its TRIPS compliance, Singapore enacted legislation on trademarks, geographical indications, and integrated circuits; amended its copyright act to extend protections to digital works and the multimedia environment (not required by TRIPS); and increased its enforcement actions.

- **Taiwan.** The Special 301 provisions have been used continuously since 1992 to obtain progress by authorities on Taiwan in improving the legislative framework available to protect intellectual property rights and the enforcement of those rights in the Taiwan judicial system. In 1994, Taiwan made significant strides in passing intellectual property rights legislation. In 1996, Taiwan issued an eighteen-point action plan for enhanced protection, which covered all major remaining areas of concern. Amendments to Taiwan's copyright law were passed in 1997. In 1999, an Intellectual Property Office was established, which led efforts together with the Investigative Bureau of the Ministry of Justice to close a number of illegal CD production facilities and conduct retail raids. However, continued and enhanced enforcement efforts are needed to address the significant problems remaining in Taiwan.

- **Thailand.** After the United States identified Thailand as a "priority foreign country" under the Special 301 provisions in 1993, Thailand has made progress in its protection of intellectual property, including increased enforcement efforts and the enactment of a new copyright law in 1994. In addition, action on a new law establishing intellectual property law courts was completed. TRIPS-consistent amendments to Thailand's patent law were enacted in 1998. An IPR action plan concluded between the United States and Thailand during 1998 strengthened levels of IPR protection and enforcement in Thailand. Pursuant to the action plan, trademark application procedures in Thailand were streamlined during that year. During late 1998 and early 1999, the Thai government continued to step up enforcement actions and to enhance coordination among various police and enforcement-oriented authorities. As a result, police raids and successful prosecutions before the IPR court improved steadily during the last half of 1998 and 1999, although overall piracy rates remain a problem.

Telecommunications Trade (Sections 1374 and 1377)

Under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 the USTR annually reviews, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements, and takes action where non-compliance is found. In most cases related to implementation of WTO commitments under the 1998 Basic Telecommunications Agreement, the annual Section 1377 review process has led governments and regulators to take immediate steps to address the complaints of U.S. carriers.

- **Canada.** As sought by the Administration under its 1998 review, Canada eliminated restrictions that prevented U.S.-based carriers from enjoying the same opportunities for transmitting Canadian international long distance traffic as enjoyed by carriers based in third countries. In the 2000 review, USTR identified for further review certain ongoing Canadian processes to address complaints that a program for subsidization of local phone service is unfair to some market participants.

- **European Union.** Administration actions as part of the 1999 Section 1377 review prevented unnecessary and potentially discriminatory standards-setting and licensing activities by the European Union and Member States with regard to third generation mobile telecommunications services, allowing suppliers of all competing U.S. technologies greater access to European and global markets.

- **Germany.** The German regulator issued decisions in 1999 that curbed or prevented anticompetitive abuses by the dominant carrier, Deutsche Telekom, as advocated by the Administration in its Section 1377 investigation. USTR identified in the 2000 review a backlog of interconnection requests, excessive license fees and regulatory transparency concerns as subjects for a continuing investigation, which will focus on relevant German government processes already under way.

- **Israel.** During the 2000 Section 1377 review, Israel committed to remove by December 31, 2001 its discriminatory access fee on calls to and from the United States and Canada.

- **Japan.** In three reviews since Japan's WTO commitments came into force in February 1998, the Administration has successfully elicited more timely and effective implementation. In 1998 the United States sought to influence the formulation of new Japanese rules for international service. The new rules allowed competition that lowered retail prices on the bilateral route by 50 percent or more. As a result of the 1999 review, Japan eliminated restrictions on the use of leased lines by new entrants, lowering costs dramatically for competitors to NTT in the domestic and international long distance and business services markets, and agreed to eliminate a premium charged to competitors for calls to certain NTT customers (ISDN customers) that was distorting competition. USTR found, as part of its 2000 review, that Japan's failure to implement cost-oriented interconnection rates calls into question its adherence to its WTO commitment to ensure cost-based interconnection rates. Based on continuing bilateral discussions and upcoming legislative developments in Japan, USTR will decide in July whether additional action, including in the WTO, would be appropriate.

- **Korea**. The Administration has consistently used U.S. trade laws to address discriminatory barriers in Korea's telecommunications market. In 1996, Korea was identified under Section 1374 of the Trade and Competitiveness Act of 1988 as a *Priority Foreign Country* (PFC). Negotiations concluded in July 1997 with commitments by Korea to ensure that U.S. equipment suppliers would be treated fairly in areas including procurement, equipment certification and type approval, protection of intellectual property, and technology transfer. Contributing to the decision to revoke Korea's identification as a PFC were Korea's agreement under the Information Technology Agreement to eliminate tariffs on information technology products, and adoption of a more pro-competitive regulatory regime in the context of its WTO commitments.

- **Mexico.** Section 1377 reviews in 1998, 1999 and 2000 have led to specific steps by Mexico to address complaints of U.S. industry. In December 1998, Mexico terminated a discriminatory inbound international surcharge, and in March 2000 it took a first step to reinstate dominant carrier regulation after a domestic court invalidated earlier rules. In the latest review, USTR expressed concern that progress towards a level playing field in Mexico is stalled, particularly with respect to new and long-promised rules for universal service, interconnection and international service. Based on continuing bilateral discussions, the Administration will decide in July whether additional action, including in the WTO, is necessary.

  In the 1996 Section 1377 review, USTR cited Mexico for not fulfilling its NAFTA obligation to accept test data from other parties' laboratories or test facilities relating to product safety to certify telecommunications equipment. An agreement reached in April 1997 established procedures to resolve this issue.

- **Peru.** The Administration's efforts, as part of the 2000 Section 1377 review, contributed to a decision by the Peruvian regulator in March 2000 to begin a process for resolving interconnection complaints of new entrants. The USTR will continue a Section 1377 investigation to follow up on the regulator's actions.

- **South Africa.** In the 2000 review, the Administration called upon South Africa to restore access to facilities of the dominant carrier, Telkom, for competitive suppliers of value added telecommunications services. The USTR will review by June 15 the status of a proposal by the independent regulator or other actions that may resolve this problem.

- **Taiwan.** As part of the 1998 review, the United States and Taiwan reached an agreement mandating a three-year transition to cost-based interconnection rates for wireless service suppliers, strengthening implementation of a 1996 agreement. In discussions under the 2000 Section 1377 review, Taiwan eliminated certain exclusivity rights from three licenses eventually issued to new entrants for fixed network services.

- **United Kingdom.** The UK regulator, OFTEL, announced in November 1999 that the UK's dominant telecommunications service provider, British Telecom (BT), would have an exclusive right to supply Digital Subscriber Lines (DSL) over its network until as late as July 1, 2001. In its 2000 review the Administration noted a proposal of the European Commission that all EU Member State regulators require unbundling and line sharing for competitive entry of DSL service, and indicated it would continue an investigation under Section 1377 to ensure timely UK adoption of the EU proposal.

And, in another action related to the telecommunications sector:

- **Japan - Government procurement of telecommunications equipment.** Following a complaint in April 1996 that Japan's National Police Agency (NPA) was discriminating against a U.S. supplier in a wireless telecommunications system procurement, USTR determined that Japan was potentially in violation of both its WTO government procurement obligations and its obligations under the bilateral government procurement agreement. Negotiations over the subsequent months resulted in the NPA agreeing to reopen the procurement. A new Request for Proposals was issued by the NPA in August 1997.

Foreign Government Procurement (Title VII)

Under Title VII of the Omnibus Trade and Competitiveness Act of 1988, USTR annually reviewed compliance by foreign governments with the Government Procurement Code, and identified countries that were discriminating in government procurement against United States goods and services. Pursuant to Section 7004 of the Omnibus Trade and Competitiveness Act of 1988, Title VII expired on April 30, 1996. On March 31, 1999, the President reinstituted the provisions of Title VII by Executive Order 13116, establishing procedures for identifying foreign countries engaging in discriminatory government procurement practices.

- **EU - electrical equipment.** Following USTR's announcement of the U.S. intention to impose sanctions, the United States and the EU reached a historic agreement in May 1993 on access to EU government procurement of heavy electrical equipment, opening a $20 billion market to U.S. companies. The agreement was expanded in April 1994 to cover the electrical utility sector and subcentral government entities, doubling to $100 billion the bidding opportunities available to U.S. and EU firms under the WTO Government Procurement Agreement.

- **EU- telecommunications.** Title VII trade sanctions were imposed for the first time by the Clinton Administration, against certain EU Member States for discriminatory government procurement practices in the telecommunications sector. These sanctions remain in place today. On May 12, 1999, the EU announced that telecommunications service providers in certain EU Member States would be exempt from the requirements (including the discriminatory provisions) of the EU Utilities Directive because it determined that effective competition for telecommunications services exists in those markets. USTR is in the process of discussing these changes with Commission officials, and will examine the extent to which these changes may result in an elimination of discrimination against U.S. suppliers, and thus permit the United States to terminate its 1993 sanctions.

- **Germany - power generation.** In April 1996 the Administration identified Germany under Title VII for its failure to comply with market access procurement requirements in the heavy electrical equipment sector. The imposition of trade sanctions provided under Title VII was delayed until September 30, 1996, because consultations suggested a resolution might be possible given additional time. On October 1, 1996, USTR announced that the German Government had agreed to take steps to ensure open competition in the German heavy electrical equipment market, including reform of the government procurement remedies system as well as outreach, monitoring, and consultation measures. The United States did not, however, terminate the Title VII action at that time because the German legislature had to enact legislation implementing reform of the procurement remedies system. Based on Germany's implementation of new legislation that appears to effectively address the concerns raised by the United States, USTR decided to terminate the 1996 Title VII identification in 2000.

- **Japan - public works.** Japan was identified under Title VII in April 1993 for discriminatory practices in its public sector construction market and USTR subsequently announced that sanctions would go into effect as of January 20, 1994. However, the sanctions were terminated prior to their imposition when Japan announced a plan to reform its public sector construction market, including measures to expand transparent and non-discriminatory procedures and adopt an open and competitive bidding system. Japan also agreed to monitor foreign access and hold annual consultations. In the 2000 Title VII report, the Administration notes U.S. disappointment with a significant and persistent pattern of discrimination that continues to impede U.S. companies' access to Japan's public works sector despite commitments made by Japan in the bilateral public works agreements. Because of the need for urgent progress in addressing these problems, the report makes clear that the U.S. Government expects their resolution in a timely manner. If this does not occur, the United States will initiate the steps necessary to identify Japan under Title VII.

- **Japan - telecommunications and medical technology.** Following identification of Japan under Title VII, in October 1994 the United States and Japan reached agreement on government procurement of telecommunications products and services and medical technology products and services. USTR continues to monitor Japan's compliance with both agreements and to assess tangible progress in Japanese procurement practices in these two sectors.

ENFORCEMENT ACTIONS USING WTO DISPUTE SETTLEMENT

The United States has been the world's most active user of the WTO dispute settlement process. The Administration has used WTO dispute settlement both as a means of vindicating rights in particular cases, and as a way to communicate to U.S. trading partners that the United States expects them to be as serious as it is about complying with WTO rules. Since the January 1, 1995, entry into force of the WTO Agreement, the United States has decided to use WTO dispute settlement procedures in 53 cases (including 4 new complaints announced on May 1, 2000). The United States has been successful in litigation both by prevailing in cases it has brought, and by negotiating agreements that settled cases "out of court" in its favor in virtually all sectors, including manufacturing, intellectual property, agriculture, and services.

- **Argentina - patent protection.** The United States has decided to request WTO consultations with Argentina regarding its failure to grant exclusive marketing rights for pharmaceuticals, its failure to protect confidential test data submitted to government regulatory authorities for pharmaceuticals and agricultural chemicals, and other significant deficiencies in Argentina's patent regime. This request will add and update claims to the already on-going dispute settlement proceedings involving Argentina's patent regime, announced in the 1999 Special 301 report. These additional claims relate to Argentina's failure to fully comply with TRIPS Agreement obligations that came into force as of January 1, 2000.

- **Argentina - duties and taxes on footwear, textiles and apparel.** The United States prevailed when it challenged specific duties imposed by Argentina on various textile, apparel and footwear items in excess of its tariff commitments; a statistical tax of 3 percent *ad valorem* on almost all imports; and measures requiring that each import of textiles, apparel and footwear be labeled with the number of a corresponding affidavit of product component filed with the Argentine government. A WTO panel and Appellate Body found that Argentina's measures were inconsistent with its WTO obligations. By February 1999, Argentina had announced that it was complying with its obligations.

- **Argentina - quotas on footwear.** In November 1998 Argentina modified an existing safeguard measure on imports of footwear from non-MERCOSUR countries and imposed a tariff-rate quota (TRQ) on such imports, in addition to safeguard duties previously imposed. It also postponed liberalization of the original safeguard duties until November 30, 1999. On March 1, 1999, the United States requested consultations with Argentina on this measure, alleging violations of the Agreement on Safeguards. A panel was established on July 26, 1999, but work did not proceed pending the outcome of a dispute brought by the EU involving the same matter. On December 14, 1999, the Appellate Body in the EU challenge upheld the panel's determination that Argentina violated the WTO Agreement on Safeguards. The United States is currently monitoring Argentina's implementation of the panel and Appellate Body's rulings and recommendations.

- **Australia - leather.** The United States prevailed in WTO dispute settlement proceedings

challenging an Australian government subsidy granted to the sole Australian exporter of automotive leather. On May 25, 1999, a WTO panel recommended that Australia withdraw the subsidy within 90 days. On September 14, 1999, Australia announced that it had taken action to implement the findings of the panel report. The United States did not consider Australia's action as full compliance and therefore asked the panel to review it. The panel ruled that Australia's action was insufficient, and since then the United States and Australia have been engaged in settlement negotiations. If a satisfactory solution cannot be reached with Australia, the WTO Dispute Settlement Body (DSB) will authorize the United States to suspend concessions (i.e., retaliate) with respect to products of Australia.

- **Australia - salmon imports.** Australia bans imports of untreated fresh, chilled or frozen salmon from the United States and Canada, allegedly for phytosanitary reasons, even though a draft risk assessment found in 1995 that imports of eviscerated fish are not a basis for concern about the transmission of fish diseases to Australia's fish stocks. In November 1995 the United States invoked WTO dispute settlement procedures and consulted with Australia on these restrictions. Meanwhile, Canada brought its own WTO case which the United States joined as a third party. Canada prevailed in its case, and USTR is carefully monitoring Australia's implementation of the WTO ruling.

- **Belgium - income tax subsidies.** The United States held WTO consultations with Belgium in June-July 1998 regarding certain provisions of the Belgian income tax law that grant Belgian corporate taxpayers a special tax exemption for recruiting an export manager.

- **Belgium - telephone directory services.** In June 1997 the United States held consultations with Belgium to address certain Belgian government measures that appeared to discriminate against ITT Promedia, N.V., a U.S. supplier of commercial telephone directory services. The Belgian measures included imposition of conditions for obtaining a license to publish commercial directories in Belgium, as well as other measures governing the acts, policies, and practices of ITT Promedia's Belgian competitor, BELGACOM B.V., with respect to telephone directory services. After a change in ownership interests in the Belgian directory services industry, USTR considered that U.S. interests were no longer substantially affected, and decided not to proceed further.

- **Brazil - local content regime for automotive investment.** In August 1996, the United States requested consultations under WTO dispute settlement procedures concerning Brazil's local content regime for automotive investment. The United States and Brazil reached a settlement agreement in March 1998.

- **Brazil - customs valuation.** The United States has decided to request WTO consultations with Brazil regarding its system for verification of the declared values of imported goods, which include textile products. This system works to prohibit the import of products with declared values below established minimum prices, and, as such, appears to violate provisions of several WTO agreements.

- **Brazil - patent protection.** The United States has decided to request WTO consultations with Brazil regarding an issue of interpretation of the TRIPS Agreement on which the two countries have had a longstanding difference of views. Brazil maintains a "local working" requirement for the enjoyability of patent rights that can only be satisfied by the domestic manufacturing of the product to be patented. The United States, however, argues that such a requirement can also be satisfied by importation, as required by the TRIPS Agreement. Having been unable to resolve this difference over the past several years, the United States has decided that this matter should be referred to dispute settlement in the WTO.

- **Canada - dairy products.** The United States prevailed on its 1997 claim that Canada was providing subsidies to exports of dairy products without regard to its WTO commitment to reduce the quantity of subsidized exports, and was maintaining a tariff-rate quota on fluid milk under which it only permitted the entry of milk in retail-sized containers by Canadian residents for their personal use. On December 22, 1999, the parties reached agreement on the time period for implementation by Canada. Under this agreement, Canada will implement the DSB's rulings and recommendations in stages; Canada has already implemented on some measures, and will complete full implementation no later than December 31, 2000.

- **Canada - patent protection**. The United States is engaged in WTO dispute settlement proceedings concerning an inconsistency between the TRIPS Agreement (which obligates WTO Members to grant a term of protection for patents that runs at least 20 years from the filing date of the underlying application) and the Canadian Patent Act (which grants a 17-year term for patents issued on the basis of applications filed before October 1, 1989). A WTO panel is expected to issue its ruling in May 2000.

- **Canada - periodicals.** The United States prevailed in dispute settlement proceedings challenging Canada's measures affecting "split-run" and other imported magazines, including a ban on imports of magazines with advertisements directed at Canadians, a special excise tax on split-run magazines, and discriminatory postal rates on imported magazines. As a result, Canada abolished the excise tax, the postal rate discrimination, and the import ban in October 1998. However, the Canadian government proposed legislation which, if enacted, would have accomplished the same protectionist result. On May 26, 1999, the United States and Canada successfully reached an agreement that not only addresses U.S. concerns, but also provides commitments from Canada in the areas of investment, tax, and market access for U.S. periodicals carrying advertisements directed primarily for the Canadian market.

- **Chile - taxes on distilled spirits.** The United States held consultations with Chile in January 1998 regarding Chile's special sales tax regime on distilled spirits, which imposes a higher tax on imported spirits than on *pisco*, a local spirit. When the EU proceeded to a WTO panel to challenge Chile's practice, the United States participated as an interested third party. The panel and the WTO Appellate Body found Chile in violation of its WTO obligations, and USTR will be monitoring Chile's actions to comply with the WTO rulings.

- **Denmark - intellectual property protection.** The United States is using the dispute settlement procedures in this case to encourage action by Denmark to implement its WTO obligations to effectively enforce its intellectual property laws. After numerous consultations with the United States in 1997 and 1998, the Government of Denmark agreed to form a special committee to consider amending Danish law to provide provisional relief in civil intellectual property rights enforcement proceedings. Though the work of that committee has been proceeding in the right direction, if no further progress is imminent, the United States will refer the matter to a WTO panel.

- **EU - banana imports.** The United States, along with Ecuador, Guatemala, Honduras, and Mexico, successfully challenged the EU banana regime in WTO dispute settlement proceedings. The regime was designed, among other things, to take away a major part of the banana distribution business of U.S. companies. However, on January 1, 1999, the EU adopted a regime that perpetuates the WTO violations identified by the panel and the Appellate Body. The United States sought WTO authorization to suspend concessions (i.e., retaliate) with respect to certain products from the EU, the value of which is equivalent to the trade damage sustained by the United States. WTO arbitrators determined the level of damage to be $191.4 million. On April 19, 1999, the WTO authorized the United States to suspend such concessions, and the United States imposed 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $191.4 million. Discussions with the EU to resolve this matter are continuing.

- **EU - dairy products.** In October 1997, the United States challenged EU practices that appeared to circumvent the EU's commitments under the WTO to limit subsidized exports of processed cheese. WTO consultations were held in November 1998, and the United States continues to monitor this issue closely.

- **EU - hormone ban.** The United States and Canada successfully challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. Because the EU did not comply with the WTO rulings and recommendations by May 13, 1999 (the deadline for compliance set by WTO arbitration), the United States sought WTO authorization to suspend concessions (i.e., retaliate) with respect to certain products of the EU, the value of which represents an estimate of the annual trade damage to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. WTO arbitrators determined the level of damage to be $116.8 million, and the United States exercised its WTO-authorized right to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $116.8 million. Discussions with the EU are continuing.

- **EU - grain imports.** In July 1995 the United States invoked WTO dispute settlement procedures to enforce the EU's WTO obligations on imports of grains. Before a panel was established, the two sides reached a settlement in conjunction with the U.S.-EU settlement on EU enlargement. The settlement ensured implementation of the EU's market access commitments on grains, reduced import charges on rice and provided for consultations on the EU's "reference price system." When the EU failed to implement the settlement agreement, the United States submitted a new request for a panel in February 1997. Thereafter, the EU took steps to implement the agreement and in April 1997 finally published regulations to do so.

- **EU, Ireland, and UK - computer equipment.** The United States challenged an EU regulation reclassifying certain local area network (LAN) adapter cards from one tariff category to another. Although the United States prevailed before a panel, the WTO Appellate Body reversed the panel decision in June 1998. However, this ruling had limited effect, given the conclusion of the Information Technology Agreement (ITA) under which the products will now enter the EU duty-free regardless of how they are classified.

- **EU – trademarks and geographical indications for agricultural products and foodstuffs.** The EU does not provide non-discriminatory treatment with respect to geographical indications for agricultural products and foodstuffs; it also does not provide sufficient protection to pre-existing trademarks that are similar or identical to such geographical indications. The United States considers that this measure is inconsistent with the EU's obligations under the TRIPS Agreement and held WTO consultations with the EU on this matter on July 9, 1999.

- **France and EU – flight management systems.** This dispute involved a French government loan – on preferential and non-commercial terms – in the amount of 140 million French francs, to be disbursed over three years, for a project in which a French company, Sextant Avionique, will develop a new flight management system (FMS) adapted to Airbus aircraft. The grant of the loan was approved by the EU. WTO consultations were held on June 30, 1999. After consulting the affected U.S. industry and taking into account its concerns, the United States did not refer the matter to a panel.

- **France - income tax subsidies.** The United States requested WTO consultations regarding certain provisions of the French Tax Code, which allow a French company to temporarily deduct its start-up expenses for its foreign operations though a tax-deductible reserve account. WTO consultations were held in June-July 1998.

- **Greece – copyright protection.** The United States has obtained positive results by pursuing this matter under WTO dispute settlement. Prior to the initiation of this case, many television stations in Greece regularly broadcasted copyrighted motion pictures and television programs without authorization from the copyright owners. In September 1998, the Greek government enacted new legislation to crack down on pirate stations. The U.S. industry has filed several test cases under this new law, the majority of which have been resolved. In addition, the rate of television piracy in Greece fell significantly in 1999. USTR continues to monitor the situation.

- **Greece –income tax subsidies.** Greek income tax law grants Greek exporters a special annual tax deduction calculated as a percentage of export income. The United States requested WTO consultations, which were held in June-July 1998.

- **Hungary - agricultural export subsidies.** In March 1996 the United States, joined by Argentina, Australia, Canada, New Zealand and Thailand, began a process of consultations with Hungary under WTO dispute settlement procedures concerning Hungary's lack of compliance with its scheduled commitments on agricultural export subsidies. Hungary reached an agreement with the concerned parties in July 1997, and in October 1997 the WTO approved a temporary waiver that specifies a program to bring Hungary into compliance with its commitments.

- **India - import quotas on agricultural, textile and industrial products**. The United States prevailed in its challenge to India's import restrictions on more than 2,700 tariff items. These restrictions are no longer justified under the balance-of-payments (BOP) exceptions of the GATT 1994. The United States and India agreed that India would implement the WTO rulings and recommendations by April 1, 2000 for approximately 73 percent of the tariff items at issue, and by April 1, 2001 for the remaining items.

- **India - motor vehicles.** The United States will request the establishment of a WTO dispute settlement panel to examine the WTO consistency of Indian measures that apply to investment in the automotive industry. India conditions the grant of certain import licenses on the requirement that manufacturing firms in the motor vehicle sector use, among other things, specified levels of local content. WTO consultations held in July 1999 between the United States and India failed to resolve this dispute, and the United States has determined that it will take this action to the next phase of the WTO dispute settlement process.

- **India - patent protection.** The United States successfully challenged India's failure to provide a "mailbox" system for filing patents for pharmaceutical and agricultural chemical products, and for failing to provide a system of exclusive marketing rights for such products. Both a panel and the Appellate Body ruled in favor of the United States. The compliance period of April 19, 1999 was set by agreement with India. India announced on April 28, 1999 that it had completed its implementation by enacting, among other things, amendments to its patent law and new regulations, to the satisfaction of the United States.

- **Indonesia - national car programs.** In October 1996, the United States and the EU each requested consultations with Indonesia concerning its 1996 national car programs, which granted tax and tariff benefits based on local content. On April 22, 1998, a WTO panel found that Indonesia's measures violated its WTO obligations. Indonesia has already eliminated the 1996 National Car Program, and on July 26, 1999, Indonesia announced that it had fully implemented the WTO rulings and recommendations of the DSB. The United States continues to monitor Indonesia's new automotive sector policy.

- **Ireland – copyright and neighboring rights**. The United States used WTO dispute settlement consultations to encourage Ireland to take further steps to implement its TRIPS obligations. After consultations with the United States, Ireland committed in February 1998 to accelerate its implementation of comprehensive copyright reform legislation, and agreed to pass a separate bill, on an expedited basis, to address two particularly pressing enforcement issues. Ireland enacted legislation in July 1998 raising criminal penalties for copyright infringement and addressing other enforcement issues. The process of completing comprehensive copyright legislation is progressing, but is currently behind schedule. The United States continues to monitor Ireland's progress and to press for rapid implementation of the new legislation.

- **Ireland - income tax subsidies.** The United States requested WTO consultations regarding provisions of Irish income tax law which granted "special trading houses" a special tax rate with respect to trading income from the export sale of Irish-manufactured goods. WTO consultations were held in June-July 1998.

- **Japan - agriculture**. The United States obtained a WTO ruling against Japan's requirement of duplicative quarantine treatment for certain varieties of horticultural products where the same treatment had been proven effective for other varieties of the same product. As a result of this dispute, Japan was required to eliminate – not just simplify – variety-by-variety testing. On July 30, 1999, Japan's Agriculture Ministry announced that it had lifted restrictions on the imports of certain varieties of fruit, including apples and cherries.

- **Japan - distribution services.** In June 1996 the United States requested consultations with Japan under WTO dispute settlement procedures regarding measures affecting market access for distribution services, applied by the Government of Japan pursuant to, or in connection with, Japan's Large Scale Retail Stores Law. In September 1996 the United States broadened the scope of the consultations to include additional legal claims and Japanese measures. Japan announced that it would abolish the Large Scale Retails Stores Law in December 1997.

- **Japan - film.** The United States used WTO dispute settlement procedures to challenge various Japanese laws, regulations, and requirements affecting Japanese imports of photographic film and paper. The WTO panel did not find sufficient evidence that Japanese Government measures were responsible for changes in the conditions of competition between imported and domestic photographic materials. Though the United States did not prevail in the film dispute, Japan made a number of representations during the course of the panel process regarding the openness of its photographic film and paper market, and the United States has been actively monitoring Japan's actions to ensure that they are in line with Japan's representations.

- **Japan - liquor taxes.** In July 1996 the United States won the first case it referred to a WTO dispute settlement panel after requesting consultations with Japan in July 1995. The panel found that Japan's liquor tax law violates WTO rules by taxing the domestic liquor *shochu* at rates far lower than Western-style brown and white spirits. The WTO Appellate Body affirmed the panel's finding. Under a December 1997 agreement, Japan agreed to eliminate tariffs on white spirits and to accelerate elimination of tariffs on brown spirits.

- **Japan - sound recordings.** In February 1996 the United States initiated WTO dispute settlement procedures to challenge Japan's denail of intellectual property protection to millions of dollars worth of U.S. sound recordings made between 1946 and 1971. In December 1996 Japan amended its laws to provide this retroactive protection. In January 1997, the USTR announced that the dispute had been resolved, and the WTO was notified that a mutually satisfactory solution had been reached.

- **Korea - import clearance procedures.** Consultations under WTO dispute settlement procedures were requested with Korea in April 1995 concerning its lengthy, burdensome and non-science-based import clearance procedures for agricultural and food products. As a result, Korea revised its inspection procedures for fresh fruit and vegetables, and agreed to make broader reforms to its food inspection and sanitation system by March 1996. After three rounds of WTO consultations on these promised reforms, in May 1996, it became clear that the Korean Government's actions had not resolved the problem. The United States thereafter held further consultations following which Korea made additional changes to its import clearance process.

- **Korea - liquor taxes.** The United States, joined by the EU, prevailed in challenging Korean excise tax rates that discriminated in favor of the Korean distilled spirit *soju* and against whisky and other Western-type distilled spirits. To comply with WTO rulings – adopted in February 1999 – the Korean Government has harmonized tax rates on Korean and imported alcoholic beverages and has reduced taxes on imports of whiskey by 28 percentage points.

- **Korea - shelf life restrictions.** The United States and Korea consulted under WTO dispute settlement procedures in June 1995 and reached a settlement in July 1995 concerning Korea's arbitrary, government-mandated shelf-life restrictions that were a barrier to U.S. exports of many food products, including beef and pork. Under the terms of the settlement, Korea agreed to convert to a manufacturer-determined shelf-life system for U.S. beef, pork, and other foods. Korea also agreed to remove other barriers to U.S. exports. The United States continues to work with Korea to ensure its implementation of the 1995 shelf-life agreement.

- **Korea - beef.** The United States initiated WTO dispute settlement proceedings in February 1999 to challenge Korea's regulatory scheme that discriminates against imported beef by confining sales of imported beef to specialized stores, limiting the manner of its display, and otherwise constraining opportunities for the sale of imported beef. Meetings of the panel were conducted in December 1999 and February 2000 and the panel's final report is expected by summer 2000.

- **Korea - airport procurement.** The United States asked a WTO panel to determine whether the Inchon International Airport construction project in Korea was covered by the WTO Government Procurement Agreement when Korea disputed such coverage. Because the entities procuring for that project are not explicitly written into Korea's list of commitments under that Agreement, the panel concluded that the project is not covered. The United States has not yet decided whether to appeal the panel ruling.

- **Mexico - high fructose corn syrup (HFCS).** The United States successfully challenged Mexico's HFCS antidumping determination in WTO dispute settlement panel proceedings. Mexico did not appeal the panel's findings, and has indicated it will comply with the rulings by September 22, 2000. The United States will closely monitor Mexico's actions.

- **Netherlands - income tax subsidies.** Certain provisions of Dutch income tax law allow exporters to establish a special "export reserve" for income derived from export sale. The United States requested WTO consultations regarding this measure. These consultations were held in June-July 1998.

- **Pakistan - patent protection.** The United States used the WTO dispute settlement mechanism to enforce Pakistan's obligation under the TRIPS agreement to establish a "mailbox" mechanism for patent applications. In July 1996 the United States requested that the matter be referred to a panel. The United States and Pakistan subsequently settled this case in February 1997 after Pakistan issued an ordinance bringing its law into conformity with its TRIPS obligations.

- **Philippines - pork and poultry.** The United States used WTO dispute settlement to challenge tariff-rate quotas and other measures maintained by the Philippines on pork and poultry imports. The two governments held WTO consultations on April 30, 1997 and on November 17, 1997, and successfully completed negotiations in February 1998 to reform the restrictive tariff-rate quotas and licensing practices of the Philippines.

- **Philippines - motor vehicles.** The United States has decided to request consultations with the Philippines on its motor vehicle policy. The Philippines imposes local content requirements on producers of motorcycles, automobiles and certain commercial vehicles. The Philippines was required to remove these measures by January 1, 2000 but requested that it be given five more years to phase them out. The United States has actively pursued resolution of this matter through bilateral and multilateral meetings, without reaching a solution.

- **Portugal - patent protection.** In April 1996 the United States invoked WTO dispute settlement procedures to challenge Portugal's patent law, which failed to provide the minimum twenty years of patent protection required by the TRIPS agreement. As a result of the U.S. challenge, Portugal announced a series of changes to its system to implement its WTO obligations. A settlement was notified to the WTO in October 1996.

- **Romania - customs valuation.** The United States will request WTO consultations with Romania regarding measures that establish minimum and maximum prices for certain imported products, including poultry, eggs, fruits and vegetables, clothing, footwear, and certain distilled spirits. These measures appear to violate Romania's obligations under various WTO agreements.

- **Sweden - intellectual property protection.** A satisfactory resolution of this dispute was reached through the use of WTO dispute settlement procedures, without having to resort to panel proceedings. On May 27, 1997, the United States requested consultations with Sweden concerning Sweden's failure to implement its obligations under the TRIPS agreement. Sweden passed legislation addressing U.S. concerns. The legislation took effect on January 1, 1999.

- **Turkey - box office tax.** The United States requested consultations in June 1996 under WTO procedures concerning Turkey's tax on box office receipts from foreign films. Turkey maintained a discriminatory "municipality" tax on box office revenues from showing foreign films, but not on box office revenues from showing domestic films. The United States and Turkey reached a settlement in July 1997, and Turkey eliminated the tax discrimination.

ENFORCEMENT ACTIONS
USE OF PREFERENTIAL ACCESS TO U.S. MARKET

The Clinton Administration has used the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) programs to integrate developing countries into the international trading system in a manner commensurate with their development, and to encourage beneficiary countries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise, and enforce intellectual property rights.

- **Argentina.** Because of Argentina's failure to protect intellectual property rights, Argentina's GSP benefits were partially suspended effective May 17, 1997.

- **Pakistan.** As of October 1, 1996, Pakistan's GSP benefits were partially suspended due to child labor and bonded labor problems in Pakistan.

- **Thailand.** GSP benefits were restored to Thailand in 1995 only after Thailand made significant improvements in intellectual property protection.

- **Maldives.** The Administration suspended GSP benefits for the Maldives on August 28, 1995, for failure to provide worker rights.

- **Dominican Republic, Guatemala, El Salvador, and Honduras.** The Administration used GSP country practice reviews to obtain improvements in worker rights.

- **Philippines.** A GSP eligibility review was initiated resulting from a petition alleging that the Philippines had failed to implement its WTO market access obligation for pork. This led to a satisfactory resolution of the issue.

- **Swaziland and Thailand.** Active GSP reviews dealing with worker rights in both of these countries have led to the legislation of new labor laws that are awaiting signature.

- **Honduras, Panama, Paraguay, Turkey.** The GSP review process was utilized to motivate improved intellectual property rights enforcement or to strengthen legal protections in these countries.

- **Panama.** The Administration decided it would self-initiate a GSP review for the first time unless a decree suspending the rights to associate and bargain collectively in export processing zones was reversed. The reversal was achieved without the need for the review.

- **Belarus.** Public comment was solicited in 2000 on an interagency proposal to suspend Belarus from the GSP program for its failure to take steps to provide the rights of association and to bargain collectively.